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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,824	09/22/2003	Leslie L. Grandy	RN 73 (2635-006-03)	1976
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Graybeal Jackson Haley c/o RealNetworks Graybeal Jackson Haley LLP 155 - 108th Ave NE Suite 350 Bellevue, WA 98004-5973			EXAMINER PARRA, OMAR S	
			ART UNIT 2623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/668,824	<b>Applicant(s)</b> GRANDY ET AL.	
	<b>Examiner</b> OMAR PARRA	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72 and 74-90 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72 and 74-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72, 74, 75 and 76-90 have been considered but are moot in view of the new ground(s) of rejection

In response to applicant's arguments:

The applicant argues that *"Murphy and Sie fails to disclose determining whether or not the user qualifies to access a feature of a media player that enhances the playback of media content"* (pages 17, 19-20: On respective sections for Rejection against claims 2-8, 59, 64, 65 and 76-80; 10-16 and 63; 18, 19, 21, 24, 66 and 67; 35, 37-45; 46, 48 and 50-52). To this matter, the examiner respectfully disagrees.

Murphy presents different levels of subscription for which the users can pay. The different levels have different benefits for the users, being one of them the ability of using a cam through a set of control buttons displayed on the interface. Given that this is a feature that is accessible only by those users that pay its price, it is inherent that the system necessarily has to determine if a requesting user is authorized to make use of the feature; otherwise, it would be a feature for all the users and a higher cost does not need to be added. Therefore, the examiner respectfully believes that Murphy covers this newly added limitation.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **3-8, 11-16, 19, 21, 22, 24, 25, 27- 30, 32, 33, 35, 37-41, 43- 46, 48, 50, 51, 59, 63, 65, 67,76, 77, 79 and 80** are rejected under 35 U.S.C. 102(e) as being anticipated by Murphy (Patent No. 6,564,380).

Regarding claims 6, 14, 22, 25, 35 and 46, Murphy teaches a computer system (with respective method and computer readable medium) for delivering/receiving media content, the computer system comprising:

a database module (**Local Video PoP servers 110 and Master server 100, Fig. 1**) configured to store a record comprising information about a user (**A user is assigned a passcode or code that identifies the user for after having logged in the server and having paid for requesting services . This pass-code is also sent to the PoP server for authenticating a requesting client –col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28. Given that this pass-code can be active for days or per sessions, it is inherent that it is stored at the PoP server for user authentication at different times; and since a user logs on to Master Server, it is**

**also inherent that it keeps information about the user for the logging in) and a media subscription level obtained by the user (Master Authorization List keeps a list of different levels of service subscriptions, col. 12 lines 64-col. 13 line 26 or Fig. 6);**

a communication module configured to receive from a user a request for media content **(Master server receives the content request and sends the content through PoP servers PoP servers 110 through Video Server 310, and Propagation server 320, col. 10 line 52-col. 11 line 4); and**

a control module **(Master Authorization server, 100 and PoP server 110)** configured to:

determine whether or not the user qualifies to receive the requested media content according to the media subscription level, and, in response to the determination that the user does qualify to receive the media content, send the media content to a device of the user that includes a media player to play the media content **(PoP server for authenticating a requesting client –col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28, and then sends the requested content to a media player, col. 6 lines 39-51 or browser based display for live content, col. 14 line 47-col. 15 line 24), and**

determine whether or not the user qualifies to access a feature of the media player that enhances the playback of the media content, and in response to the determination that the user does qualify to access the feature, allow the user to access the feature of the media player **(The different levels have different benefits for the**

**users, being one of them the ability of using a cam, for enhancing a received video, through a set of control buttons displayed on the interface, col. 12 line 65-col. 13 line 26, . Given that this is a feature that is accessible only by those users that pay its price, it is inherent that the system necessarily has to determine if a requesting user is authorized to make use of the feature; otherwise, it would be a feature for all the users and a higher cost does not need to be added).**

Regarding claims 3, 11, 19, 27, 37 and 48, Murphy teaches a computer system (with respective method and computer readable medium), wherein the media selection is delivered to the client system via the Internet **(col. 7 lines 7-16).**

Regarding claims 4, 13 and 67, Murphy teaches a computer system (with respective method and computer readable medium) wherein, in response to the determination that the user does qualify to receive the media content, initiating playback of the media content by the media player **(When only content is received, a regular player is used, col. 6 lines 39-51; when receiving live content and user paid for camera control feature, a browser based display for live content and buttons to manipulate it are additionally present, col. 13 lines 20-26; col. 14 line 47-col. 15 line 24, line 58-col. 16 line 40, where a director, used as an example, paid for the camera control).**

Regarding claims 5, 12, 21 and 45, Murphy teaches a computer system (with respective method and computer readable medium) wherein allowing the user to access the feature of the media player includes modifying the media player **(The user can view the content at different speeds for different subscription levels, col. 13 lines 1-4 or col. 10 line 52- col. 11 line 4. If premium rate is paid, user can use camera control buttons are accessible at the viewer display, col. 13 lines 20-26; col. 14 line 47-col. 15 line 24, line 58-col. 16 line 40, where a director, used as an example, paid for the camera control).**

Regarding claims 7 and 15, Murphy teaches a computer system (with respective method and computer readable medium) wherein the requested media content is included in a group of media content available under the user's media subscription level **(col. 12 lines 24-63).**

Regarding claims 8, 16 and 24, Murphy teaches a computer system (with respective method and computer readable medium) further comprising:

receiving from the user a request to change the availability of media content under the user's media subscription level; determining whether or not the user's media subscription level covers the requested change in availability; and in response to the determination that the subscription level does cover the change in availability, changing the availability of the media content under the user's media subscription level **(Regardless of the subscription level, i.e. 'All Sports' or 'All Music', Fig. 6, a user**

**can change the availability of a content by changing its 'Use Rights', i.e. access to a feed once to unlimited, by just paying a required amount; making the content available to the user permanently).**

Regarding claims 28, 32, 38 and 43, Murphy teaches a computer system (with respective method and computer readable medium) wherein the control module is configured to sign in to a sever of the provider to request the media content from the provider **(After being authenticated by the Master and PoP servers, server 310 connect to video data storage 350; Fig. 3; col. 10 line 52-col. 11 line 55);and**

disable access to the feature while not signed in to the provider's server **(When the price is based on the length of the feed or based on time of using the service –col. 13 lines 1-26, it is inherent that the server has to know when a user logs off to stop the service).**

Regarding claims 29, 40, 50 and 76, Murphy teaches a computer system (with respective method and computer readable medium) wherein the feature includes a graphic equalizer **(Fig. 7 or col. 15 lines 1-24, where the controls modulate or customize the video to user's preference).**

Regarding claims 30, 41, 51 and 77, Murphy teaches a computer system (with respective method and computer readable medium) wherein feature includes a screen



selection mode that permits a user to vary a screen size for a multimedia presentation  
**(col. 15 lines 12-15 or col.13 lines 1-4).**

Regarding claims 33, 39 and 44, Murphy teaches a computer system (with respective method and computer readable medium) wherein the control module is configured to receive the-access to the feature each time the media content is received  
**(col. 16 lines 12-40).**

Regarding claim 59, Murphy teaches a computer system (with respective method and computer readable medium) , further comprising receiving a periodic payment to keep the user qualified to receive media content covered by the media subscription level **(As seen in Fig. 6, the price paid for authorization for getting programming is paid in a monthly basis).**

Regarding claims 63 and 65, Murphy teaches a computer system (with respective method and computer readable medium) wherein the request from the user includes selecting a hyperlink that corresponds to the media content **(It tremendously well known in the art of searching and requesting content on the internet that after content queries, the results are presented in a hyperlink manner for convenience for the user to select it with just one click).**

Regarding claims 79 and 80, Murphy teaches a computer system (with respective method and computer readable medium) wherein determining whether or not the user qualifies to access the feature includes determining whether or not the user's media subscription level has expired (**As seen in the Pricing Table in Fig. 6, subscription prices are set to be good for a determined amount of time –i.e. per month, per minute, etc. It is inherent that no service will be provided if the time for which a subscriber has paid for has expired; col. 13 lines 1-26).**

3. Claims **86 and 88-90** are rejected under 35 U.S.C. 102(e) as being anticipated by Yanagisawa (Pub. No. 2005/0131910).

Regarding claim 86, Yanagisawa teaches a method for allocating subscription fees for media content, the method comprising:

receiving from a user a subscription fee to allow the user to access media content from a plurality of media content providers (**Abstract; [0010]; [0037]; [0040]; ;** and

providing a media content provider included in the plurality of content providers a portion of the subscription fee; wherein the portion is determined by the type of media content provided by the media content provider (**[0069]; [0070]; [0096]; [0104]).**

Regarding claim 88, Yanagisawa teaches a method wherein the media content comprises audio and video content (**[0039]; [0111]).**

Regarding claim 89, Yanagisawa teaches a method wherein the media content is streamed over the internet ([0010]-[0013]).

Regarding claim 90, Yanagisawa teaches a method further comprising receiving from a second user a subscription fee to allow the second user to access media content from the media content provider; and providing the media content provider a portion of the subscription fee from the second user (**Different users can access the content from the content providers, and from his/her subscription a portion is given to the content providers, ([0069]; [0070]; [0096]; [0104]).**

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **2, 10, 18, 64 and 66** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Sie et al. (hereinafter 'Sie', Pub. No. 2003/0126595).

Regarding claims 2, 10, 18, 64 and 66, Murphy teaches all the limitations of the claims they depend on. On the other hand, Murphy does not teach that in response to

the determination that the user does not qualify to receive the media content, offering a media subscription level to the user that includes the requested media content.

However, in an analogous art, Sie teaches a system that distributes content to user in a subscription form through a communication network in which, if a requesting user wants a piece content and it's not covered by his/her subscription, an offering of a subscription level is made to him/her that would allow him/her to obtain and use the requested content ([0076]).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy's invention with Sie's feature of offering a subscription level for the benefit of keeping the user as a costumer, in the case he accepts the offer, bringing at the end more revenue to the content-distribution side of the system.

6. Claim **31, 42, 52 and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Holtz et al. (hereinafter 'Holtz', Patent No. 6,760,916).

Regarding claims 31, 42, 52 and 78, Murphy teaches all the limitations of the claims they depend on. On the other hand, Murphy does not explicitly teach that the selected feature to be an absence or reduction in advertisements.

However, in an analogous art, Holtz teaches a system that provides content on demand from Internet, in which a fee is paid as a premium fee for removing the advertisement off the content (col.44 line 55-col. 45line 12).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy's invention with the feature of providing commercial-free content for the benefit of the content that makes the user viewing experience irritating and at the same time recovering the money that it would have been collected if the commercial was shown, otherwise.

7. Claims **68-71, 73, 74 a 81- 85** are rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Baker et al. (hereinafter 'Baker', Pub. No. 2001/0049824).

Regarding claims 68 and 82, LaRocca teaches a method of allocating subscription fees for media content, the method comprising receiving from a user a subscription fee to allow the user to access media content from a plurality of media content providers **(A user pays a first fee for base service, that would make him/her being able to access content for that base service after authentication, col. 3 lines 30-46)**. On the other hand, LaRocca does not explicitly teach providing a media content provider included in the plurality of content providers a portion of the subscription; wherein the portion is determined by the number of times the user accesses the media content from the media content provider, to a media content provider in response or

determined by the number of users who have included the media content provider in their subscription plan..

However, in an analogous art, Baker teaches a system a business model for distribution of content where content providers or program developers get paid proportionally to the amount of users download or use of their content ([0015]). Paying the content provider accordingly to how many users have used its content is the same as paying the content provider for how many users have included the media content provider in their subscription plan, given that by using provider's content, the user is including the content provider in what he/she paid for.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified LaRocca's invention with Baker's feature of paying the content creator or developer proportionally to the number of times users downloads them for the benefit of not paying a fixed amount to content providers even if their content is not being used by costumers.

Regarding claim 69, the combined teachings of LaRocca and Baker teach a method wherein the portion of the subscription fee from the second user is higher than the portion of the fee from the other user **(Given that a user that is not currently a subscriber can get access to the service by paying for the basic plus the extra service for a higher price than someone that is already a subscriber for the basic, LaRocca: col. 3 lines 30-46, and since the system can pay revenues to the content**

**providers proportionally, the portion payment for the second costume would be higher than the other one, Baker: [0015]; [0033]).**

Regarding claims 70 and 84, the combined teachings of LaRocca and Baker teach a method wherein access to the media content is provided via the Internet **(Baker: Abstract, [0010], [0022]).**

Regarding claim 71, the combined teachings of LaRocca and Baker teach a method wherein the media content is transmitted\_the computer network transmits media content that is in a packet format **(LaRocca: col. 6 lines 11-25).**

Regarding claims 74 and 83, the combined teachings of LaRocca and Baker teach a method wherein the media content comprises audio and video content **(LaRocca: col. 3 lines 30-61).**

Regarding claims 81 and 85, the combined teachings of LaRocca and Baker teach a method further comprising:

receiving from a second user a subscription fee to allow the second user to access media content from the media content provider **(Anyone, another or second user, can subscribe to the service by paying a subscription fee; LaRocca: col. 3 lines 30-46); and**

providing the media content provider a portion of the subscription fee from the second user **(After receiving the second user's fee –LaRocca, col. 3 lines 30-46, the system can pay the content creator proportionally- Baker: [0015])**.

8. Claim **87** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (Pub. No. 2005/0131910) in view of Murphy (Patent No. 6,564,380).

Regarding claim 87, Yanagisawa teaches all the limitations of the claim it depends on. On the other hand, Yanagisawa does not explicitly teach a method wherein the portion of the subscription fee provided to a media content provider for a weather report is less than the portion provided to a media content provider for a television show.

However, in an analogous art, Murphy teaches a system that charges users according to categories and duration of the programs (Pricing Table, Fig. 6; col. 13 lines 1-26). Being a movie or a television program longer than a weather segment, a second user would be charged higher for a television program than another user for a weather report.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Yanagisawa's invention with Murphy's feature of charging more a television program client than a weather report user for the benefit of having another way of pricing the service content based on the time the network is used.



9. Claim **72** is rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Baker et al. (hereinafter 'Baker', Pub. No. 2001/0049824) as applied to claim 68 above, and further in view of Peterka et al. (hereinafter, 'Peterka', Pub. No. 2002/0170053).

Regarding claim 72, the combined teachings of LaRocca and Baker teach all the limitation of the claim it depends on. On the other hand, LaRocca and Baker do not explicitly teach a method wherein the first fee and the second fee are provided to the media content provider electronically.

However, in an analogous art, Peterka teaches that credit card number is provided as part of the user information and after checking the user is able to get the service, they provide it and charge it ([0072]). In other words, Peterka teaches that payments can be performed electronically.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified LaRocca and Baker's invention with Peterka's teaching of charging a credit card electronically for the benefit of receiving payment of the service immediately and having the user not to use longer processes of payment (writing a check, buying a money order and mail them out).

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM schedule (M-F, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP

/Christopher Grant/  
Supervisory Patent Examiner, Art Unit 2623